

AMENDED IN ASSEMBLY JUNE 8, 2016

AMENDED IN SENATE MAY 12, 2016

AMENDED IN SENATE MARCH 30, 2016

AMENDED IN ASSEMBLY MAY 28, 2015

AMENDED IN ASSEMBLY APRIL 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 866

Introduced by Assembly Member Eduardo Garcia
(Principal coauthors: Senators Block and Hall)

February 26, 2015

An act to amend Section 25503.6 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 866, as amended, Eduardo Garcia. Alcoholic beverages: advertising: San Diego: Inglewood.

Existing law generally prohibits various licenseholders from providing money or any other thing of value to a person owning or operating an on-sale premises where alcoholic beverages are served, subject to specified exceptions. Existing law authorizes the holder of a winegrower's license, a beer manufacturer, a distilled spirits rectifier, a distilled spirits manufacturer, and a distilled spirits manufacturer's ~~agent~~, *agent* to purchase advertising space and time from, or on behalf of, an on-sale retail licensee, under certain conditions, if the on-sale retail licensee is the owner, manager, agent of the owner, assignee of

the owner's advertising rights, or major tenant of specified facilities. Existing law makes it a misdemeanor to coerce or solicit licensees in connection with these provisions, as specified.

This bill would expand the facilities to which the exception described above would apply to include outdoor stadiums with specified seating capacities located in the Cities of San Diego and ~~Inglewood~~. *Inglewood, as provided*. By expanding the scope of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Cities of San Diego and Inglewood.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25503.6 of the Business and Professions
- 2 Code is amended to read:
- 3 25503.6. (a) Notwithstanding any other provision of this
- 4 chapter, a beer manufacturer, the holder of a winegrower's license,
- 5 a distilled spirits rectifier, a distilled spirits manufacturer, or
- 6 distilled spirits manufacturer's agent may purchase advertising
- 7 space and time from, or on behalf of, an on-sale retail licensee
- 8 subject to all of the following conditions:
- 9 (1) The on-sale licensee is the owner, manager, agent of the
- 10 owner, assignee of the owner's advertising rights, or the major
- 11 tenant of the owner of any of the following:
- 12 (A) An outdoor stadium or a fully enclosed arena with a fixed
- 13 seating capacity in excess of 10,000 seats located in Sacramento
- 14 County or Alameda County.
- 15 (B) A fully enclosed arena with a fixed seating capacity in
- 16 excess of 18,000 seats located in Orange County or Los Angeles
- 17 County.

1 (C) An outdoor stadium or fully enclosed arena with a fixed
2 seating capacity in excess of 8,500 seats located in Kern County.

3 (D) An exposition park of not less than 50 acres that includes
4 an outdoor stadium with a fixed seating capacity in excess of 8,000
5 seats and a fully enclosed arena with an attendance capacity in
6 excess of 4,500 people, located in San Bernardino County.

7 (E) An outdoor stadium with a fixed seating capacity in excess
8 of 10,000 seats located in Yolo County.

9 (F) An outdoor stadium and a fully enclosed arena with fixed
10 seating capacities in excess of 10,000 seats located in Fresno
11 County.

12 (G) An athletic and entertainment complex of not less than 50
13 acres that includes within its boundaries an outdoor stadium with
14 a fixed seating capacity of at least 8,000 seats and a second outdoor
15 stadium with a fixed seating capacity of at least 3,500 seats located
16 in Riverside County.

17 (H) An outdoor stadium with a fixed seating capacity in excess
18 of 1,500 seats located in Tulare County.

19 (I) A motorsports entertainment complex of not less than 50
20 acres that includes within its boundaries an outdoor speedway with
21 a fixed seating capacity of at least 50,000 seats, located in San
22 Bernardino County.

23 (J) An exposition park, owned or operated by a bona fide
24 nonprofit organization, of not less than 400 acres with facilities
25 including a grandstand with a seating capacity of at least 8,000
26 people, at least one exhibition hall greater than 100,000 square
27 feet, and at least four exhibition halls, each greater than 30,000
28 square feet, located in the City of Pomona or the City of La Verne
29 in Los Angeles County.

30 (K) An outdoor soccer stadium with a fixed seating capacity of
31 at least 25,000 seats, an outdoor tennis stadium with a fixed
32 capacity of at least 7,000 seats, an outdoor track and field facility
33 with a fixed seating capacity of at least 7,000 seats, and an indoor
34 velodrome with a fixed seating capacity of at least 2,000 seats, all
35 located within a sports and athletic complex built before January
36 1, 2005, in the City of Carson in Los Angeles County.

37 (L) An outdoor professional sports facility with a fixed seating
38 capacity of at least 4,200 seats located in San Joaquin County.

39 (M) A fully enclosed arena with a fixed seating capacity in
40 excess of 13,000 seats in the City of Inglewood.

1 (N) (i) An outdoor stadium with a fixed seating capacity of at
2 least 68,000 seats located in the City of Santa Clara.

3 (ii) A beer manufacturer, the holder of a winegrower's license,
4 a distilled spirits rectifier, a distilled spirits manufacturer, or
5 distilled spirits manufacturer's agent may purchase advertising
6 space and time from, or on behalf of, a major tenant of an outdoor
7 stadium described in clause (i), provided the major tenant does not
8 hold a retail license, and the advertising may include the placement
9 of advertising in an on-sale licensed premises operated at the
10 outdoor stadium.

11 (O) A complex of not more than 50 acres located on the campus
12 of, and owned by, Sonoma State University dedicated to presenting
13 live artistic, musical, sports, food, beverage, culinary, lifestyle, or
14 other cultural and entertainment events and performances with
15 venues that include a concert hall with a seating capacity of
16 approximately 1,500 seats, a second concert hall with a seating
17 capacity of up to 300 seats, an outdoor area with a seating capacity
18 of up to 5,000 seats, and a further outdoor area with a seating
19 capacity of up to 10,000 seats. With respect to this complex,
20 advertising space and time may also be purchased from or on behalf
21 of the owner of the complex, a long-term tenant or licensee of the
22 venue, whether or not the owner, long-term tenant, or licensee
23 holds an on-sale license.

24 (P) A fairgrounds with a horse racetrack and equestrian and
25 sports facilities located in San Diego County.

26 (Q) An outdoor stadium with a fixed seating capacity of at least
27 43,000 seats located in the City of San ~~Diego~~. *Diego, as follows:*

28 (i) *A beer manufacturer, the holder of a winegrower's license,*
29 *a distilled spirits rectifier, or a distilled spirits manufacturer may*
30 *purchase advertising space and time from the owner or a major*
31 *tenant of the stadium described in this subparagraph, provided*
32 *the owner or major tenant does not hold a retail license.*

33 (ii) *The terms of the agreement shall not include an inducement*
34 *for the owner or major tenant of the stadium to require its on-sale*
35 *licensee to purchase the brands of the advertiser or to exclude*
36 *brands for sale at the facility other than those of the advertiser.*

37 (iii) *No revenue from the advertising agreement shall be shared*
38 *or provided, directly or indirectly, with the on-sale licensee*
39 *providing alcoholic beverage and food services at the stadium.*

1 (R) An outdoor stadium with a fixed seating capacity of at least
2 70,000 seats located in the City of ~~Inglewood~~. *Inglewood, as*
3 *follows:*

4 (i) *A beer manufacturer, the holder of a winegrower's license,*
5 *a distilled spirits rectifier, or a distilled spirits manufacturer may*
6 *purchase advertising space and time from the owner or a major*
7 *tenant of the stadium described in this subparagraph, provided*
8 *the owner or major tenant does not hold a retail license.*

9 (ii) *The terms of the agreement shall not include an inducement*
10 *for the owner or major tenant of the stadium to require its on-sale*
11 *licensee to purchase the brands of the advertiser or to exclude*
12 *brands for sale at the facility other than those of the advertiser.*

13 (iii) *No revenue from the advertising agreement shall be shared*
14 *or provided, directly or indirectly, with the on-sale licensee*
15 *providing alcoholic beverage and food services at the stadium.*

16 (2) The outdoor stadium or fully enclosed arena described in
17 paragraph (1) is not owned by a community college district.

18 (3) The advertising space or time is purchased only in connection
19 with the events to be held on the premises of the exposition park,
20 stadium, or arena owned by the on-sale licensee. With respect to
21 an exposition park as described in subparagraph (J) of paragraph
22 (1) that includes at least one hotel, the advertising space or time
23 shall not be displayed on or in any hotel located in the exposition
24 park, or purchased in connection with the operation of any hotel
25 located in the exposition park. With respect to the complex
26 described in subparagraph (O) of paragraph (1), the advertising
27 space or time shall be purchased only in connection with live
28 artistic, musical, sports, food, beverage, culinary, lifestyle, or other
29 cultural and entertainment events and performances to be held on
30 the premises of the complex.

31 (4) The on-sale licensee serves other brands of beer distributed
32 by a competing beer wholesaler in addition to the brand
33 manufactured or marketed by the beer manufacturer, other brands
34 of wine distributed by a competing wine wholesaler in addition to
35 the brand produced by the winegrower, and other brands of distilled
36 spirits distributed by a competing distilled spirits wholesaler in
37 addition to the brand manufactured or marketed by the distilled
38 spirits rectifier, the distilled spirits manufacturer, or the distilled
39 spirits manufacturer's agent that purchased the advertising space
40 or time.

(b) Any purchase of advertising space or time pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the beer manufacturer, the holder of the winegrower's license, the distilled spirits rectifier, the distilled spirits manufacturer, or the distilled spirits manufacturer's agent and any of the following:

(1) The on-sale licensee.

(2) With respect to clause (ii) of subparagraph (N) of paragraph (1) of subdivision (a), the major tenant of the outdoor stadium.

(3) With respect to subparagraph (O) of paragraph (1) of subdivision (a), the owner, a long-term tenant of the complex, or licensee of the complex, whether or not the owner, long-term tenant, or licensee holds an on-sale license.

(c) Any beer manufacturer or holder of a winegrower's license, any distilled spirits rectifier, any distilled spirits manufacturer, or any distilled spirits manufacturer's agent who, through coercion or other illegal means, induces, directly or indirectly, a holder of a wholesaler's license to fulfill all or part of those contractual obligations entered into pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space, time, or costs involved in the contract, whichever is greater, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(d) Any on-sale retail licensee, as described in subdivision (a), who, directly or indirectly, solicits or coerces a holder of a wholesaler's license to solicit a beer manufacturer, a holder of a winegrower's license, a distilled spirits rectifier, a distilled spirits manufacturer, or a distilled spirits manufacturer's agent to purchase advertising space or time pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, whichever is greater, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

1 (e) For the purposes of this section, “beer manufacturer” includes
2 any holder of a beer manufacturer’s license, any holder of an
3 out-of-state beer manufacturer’s certificate, or any holder of a beer
4 and wine importer’s general license.

5 (f) The Legislature finds that it is necessary and proper to require
6 a separation among manufacturing interests, wholesale interests,
7 and retail interests in the production and distribution of alcoholic
8 beverages in order to prevent suppliers from dominating local
9 markets through vertical integration and to prevent excessive sales
10 of alcoholic beverages produced by overly aggressive marketing
11 techniques. The Legislature further finds that the exceptions
12 established by this section to the general prohibition against tied
13 interests shall be limited to their express terms so as not to
14 undermine the general prohibition and intends that this section be
15 construed accordingly.

16 SEC. 2. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.

25 SEC. 3. The Legislature finds and declares that a special law
26 is necessary and that a general law cannot be made applicable
27 within the meaning of Section 16 of Article IV of the California
28 Constitution because of the unique conditions located in the Cities
29 of San Diego and Inglewood.

30 SEC. 4. This act is an urgency statute necessary for the
31 immediate preservation of the public peace, health, or safety within
32 the meaning of Article IV of the Constitution and shall go into
33 immediate effect. The facts constituting the necessity are:

34 In order to ensure the fair and efficient application of the
35 alcoholic beverage control licensing laws with respect to eligible
36 facilities in the Cities of San Diego and Inglewood, it is necessary
37 that this act take immediate effect.